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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,314	03/06/2001	Peter V. Radatti	17-00	2982
7590 08/28/2007				
CyberSoft, Inc. 1508 Butler Pike Conshohocken, PA 19428-1322			EXAMINER REVAK, CHRISTOPHER A	
			ART UNIT 2131	PAPER NUMBER
			MAIL DATE 08/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/800,314

Applicant(s)

RADATTI ET AL.

Examiner

Christopher A. Revak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15, 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. The examiner hereby maintains the obviousness-type double patenting rejections until terminal disclaimers are filed.
2. Applicant's arguments filed with respect to claims 1-13, 15, and 16 have been fully considered and are persuasive. The rejection of claims 1-13 as being unpatentable over Hawe in view of Ranger has been withdrawn.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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4. Claims 1-13,15, and 16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4-19 of copending Application No. 09/800,328. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-13,15, and 16 of the instant application are envisioned by copending Application No. 09/800,328 in that claims 4-19 of the copending application contain all the limitations of claims 1-14 of the instant application. Claims 1-13,15, and 16 of the instant application therefore is not patentably distinct from the copending application, and as such, is unpatentable for obvious-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1-13,15, and 16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over 1-36 of copending Application No. 10/655,387. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-13,15, and 16 of the instant application are envisioned by copending Application No. 10/655,387 in that claims 1-36 of the copending application contain all the limitations of claims 1-13,15, and 16 of the instant application. Claims 1-13,15, and 16 of the instant application therefore is not patentably distinct from the copending application, and as such, is unpatentable for obvious-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 1-13,15, and 16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 09/838,979. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-13,15, and 16 of the instant application are envisioned by copending Application No. 09/838,979 in that claims 1-12 of the copending application contain all the limitations of claims 1-13,15, and 16 of the instant application. Claims 1-13,15, and 16 of the instant application therefore is not patentably distinct from the copending application, and as such, is unpatentable for obvious-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Specification***

7. The disclosure is objected to because of the following informalities:

On page 1 of the applicant's specification, reference is made to two applications with the information missing.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1-13,15, and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The examiner cannot find support in the applicant's specification for the amended limitations "protocol parser that parses code based on the content of the code received from said communications channel". Additionally, new claims 15 and 16 recite of subject matter not supported by the applicant's specification. Claim 15 recites of "reintroduced code comprises code containing the content upon which parsing with said protocol parser was based" and claim 16, "reintroduced code comprises code scanned by said scanner for which said indicator is negative, and wherein said reintroduced code contains the content upon which parsing with said protocol parser is based".

***Allowable Subject Matter***

10. Claims 1-13,15, and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action. It was not found to be taught in the prior art of a protocol parser that parses code based on the content of code received from said communications channel; a protocol scanner; and, a proscribed code scanner comprised of a scanning means and an indicator means; whereby said protocol parser transmits said code to said proscribed code

scanner through said protocol scanner, and whereby said indicator means provides an indication of the presence of proscribed code after scanning said intercepted code.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR

  
August 25, 2007

CHRISTOPHER REVAK  
PRIMARY EXAMINER

